

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

No. 19-cv-0201 JCH/SMV

No. 13-cr-0966 JCH/SMV

BRANDI CHANNON,

Defendant/Movant.

ORDER DENYING THE UNITED STATES'
MOTION FOR LEAVE TO FILE A CONSOLIDATED RESPONSE

THIS MATTER is before the Court on the United States' Motion for Leave to File a Consolidated Response to the Channons' § 2255 Motions [Doc. 16], filed on May 15, 2019, and on the United States' Supplement [Doc. 21], filed on June 17, 2019. The United States requests leave to file "one consolidated response" to the separate Motions to vacate under 28 U.S.C. § 2255 filed by Defendant Matthew Channon and by Defendant Brandi Channon. [Doc. 16].

The United States explains that the Channons were "indicted and tried together, and their litigation strategy was closely aligned throughout the proceedings. They continue to follow a joint strategy in these collateral proceedings. With the exception of masculine and feminine pronouns, the majority of the motions are identical to each other." *Id.* at 1. In its supplement, the United States elaborates further on the similarities between the Channons' Motions. *See* [Doc. 21]. The United States urges that one consolidated response is appropriate under the circumstances here and suggests that the Channons could each file separate replies to the government's one consolidated response. *Id.* at 3. This proposal might be workable if the filings associated with the Channons' two § 2255 Motions appeared on one consolidated docket, but they do not. Other than the two

original § 2255 Motions (and eventually the final orders that dispose of the Motions), the filings associated with the two § 2255 Motions do not appear on the consolidated criminal-case docket. *See United States v. Channon*, 13-cr-0966 JCH/SMV; *see also New 2255 Processing in CM/ECF Effective September 1, 2018*, United States District Court of the District of New Mexico, <https://www.nmd.uscourts.gov/news/new-2255-processing-cmecf-effective-september-1-2018> (last visited June 17, 2019) (directing that filings associated with § 2255 Motions be filed in the separate civil case).

Instead, there are two cases. There are separate civil cases associated with each of the Channons' § 2255 Motions. Matthew Channon's Motion has its own civil case and its own civil docket, identified by civil case number 19-cv-0200 JCH/SMV. Brandi Channon's Motion has its own civil case and docket, identified by civil case number 19-cv-0201 JCH/SMV. As a practical matter, if the United States were granted leave to file "one consolidated response," it is unclear whether the response would be filed in Matthew Channon's case or in Brandi Channon's case. If, for example, the United States filed its one consolidated response in Matthew Channon's case, the Court is not aware of any authority that would allow Brandi Channon to file a reply in Matthew Channon's case—and vice versa.

IT IS THEREFORE ORDERED that the United States' Motion for Leave to File a Consolidated Response to the Channons' § 2255 Motions [Doc. 16] is **DENIED**. The United States must file a response to Brandi Channon's Amended Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence [Doc. 8] on the docket associated with Brandi Channon's case, 19-cv-0201 JCH/SMV, **no later than June 20, 2019**.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge